

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

JAIRO ANDRES VICENTE,

Petitioner,

v.

SUSAN WASHBURN, Superintendent,
Eastern Oregon Correctional Institution,

Respondent.

Case No. 2:20-cv-1548-YY

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge Youlee Yim You issued Findings and Recommendation in this case on July 9, 2021. ECF 19. Judge You recommended that this Court deny Petitioner's Petition for Writ of Habeas Corpus (ECF 1) and decline to issue a certificate of appealability.

Under the Federal Magistrates Act (Act), the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). If a party files an objection to a magistrate judge's findings and recommendations, "the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.*; Fed. R. Civ. P. 72(b)(3).

For those portions of a magistrate judge’s findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review *de novo* magistrate judge’s findings and recommendations if objection is made, “but not otherwise”). Although in the absence of objections no review is required, the Magistrates Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the Court review the magistrate judge’s recommendations for “clear error on the face of the record.”

Petitioner timely filed an objection. ECF 21. Petitioner offered no bases or argument for his objections, but simply identified certain of Judge You’s findings and conclusions and stated that Petitioner objected to them. A “general” objection to a Findings and Recommendation does not meet the “specific written objection[]” requirement of Rule 72(b) of the Federal Rules of Civil Procedure. *See, e.g., Velez-Padro v. Thermo King de Puerto Rico, Inc.*, 465 F.3d 31, 32 (1st Cir. 2006) (“Conclusory objections that do not direct the reviewing court to the issues in controversy do not comply with Rule 72(b)”).

For those portions of Judge You’s Findings and Recommendation to which neither party has objected, or to which only a general objection has been made, this Court follows the recommendation of the Advisory Committee and reviews those matters for clear error on the face of the record. No such error is apparent.

The Court ADOPTS Judge You's Findings and Recommendation, ECF 19. The Court DENIES Petitioner's Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254. The Court declines to issue a Certificate of Appealability on the basis that Petitioner has not made a substantial showing of the denial of a constitutional right pursuant to 28 U.S.C. § 2253(c)(2).

IT IS SO ORDERED.

DATED this 29th day of July, 2021.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge